

## **Executive Committee Meeting Minutes – Monday, January 17, 2005**

Chairman Dwyer called the meeting to order at 8:30 a.m. and led the committee in the Pledge of Allegiance.

**Present:** Chairman James Dwyer, County Board Supervisors Patricia Haukohl, Walter Kolb, Richard Manke, William Mitchell, Duane Paulson, Duane Stamsta.

**Staff Present:** Chief of Staff Lee Esler, Legislative Policy Advisor Mark Mader, Legislative Policy Advisor Dave Krahn, Office Services Coordinator Windy Jicha.

**Also Present:** Hazardous Materials Coordinator Leslie Williams, Mark Garsombke of Whyte Hirschboeck Dudek, S.C., Sheriff Dan Trawicki, Charles Mulcahy of Whyte Hirschboeck Dudek, Margaret Farrow, Mayor Jeff Speaker, Information Systems Manager Mike Biagioli, Collections and Business Services Manager Sean Sander, Corporation Counsel Tom Farley, Business Manager Betsy Crosswaite, Supervisor Rodell Singert, Architectural Services Manager Dennis Cerreta, Director of Public Works Rich Bolte, Captain Meg Schnabl, Jail Administrator Mike Giese.

### **Discuss and Consider Ordinance 159-O-107: Create New Capital Project 200509, North Prairie Groundwater Remediation**

Williams said because of concerns over the possibility of salt-contaminated storm water runoff affecting nearby private wells, the Village of North Prairie requires that Waukesha County test groundwater around the Waukesha County North Prairie Substation, located at 126 N. Oak Ridge Drive in North Prairie, and in a nearby surface water pond. Monitoring wells were installed for this purpose when the facility was built in 1990 and have been sampled quarterly since that time. The results of these analyses are reported to the Wisconsin Department of Natural Resources (WDNR). THE WDNR's analysis of the monitoring data indicates that there appears to be a gradual increase in the chloride levels over time. They also found there had been leakage of brine into the ground water from one of the tanks. Due to the consultation with the WDNR, Waukesha County plans to address this issue by installing a new underground holding tank to capture interior floor drain and truck washing wastewater during salt-handling season, testing the integrity of the existing underground brine collection tank, installing a high-level alarm and grading and resurfacing the concrete apron in front of the salt storage dome. This is coming up out of the regular capital projects timeline due to the back and forth discussions with the WDNR.

Williams said the project expenditure budget, for construction only, is estimated at \$105,000 and will be funded from the county's contingency funds. Sufficient funds are available from contingency for this project. The new underground holding tank will require annual pumping and disposal costs estimated at \$2,000. These costs will be paid from the highway-operating budget.

Williams said conversations with the WDNR started in 2002. In 2003, they began to look at who would pay for what improvements. Williams said Stauffer is working on an insurance claim for this. The leak was found when a septic-pumper noticed water leaking into the septic system.

Dwyer asked why wasn't this in the 2004 Capital Plan? Crosswaite said in June a consultant provided an estimate of \$50,000. In June Keckeisen was able to put aside this amount for this purpose. In November, they got the actual project bids and found the costs to be more than \$100K. Dwyer asked why didn't we transfer funds from the 2004 budget and take less from the contingency fund in 2005. Crosswaite said the high cost of utilities in December caused us to spend the money that was put aside. They talked to DOA staff and they recommended this manner to handle the funds.

Kolb asked who monitors the tank? Williams said the tank does not have a high level alarm but one would be included in the future. Kolb asked did anyone investigate who caused the leak in the tank? If it's the supplier, can we go after them? Williams said they are looking into it. Williams said the incident started in 1999. The monitoring data has shown a steady increase. There was only one month where the numbers increased greatly. We didn't get resolution on how to handle this until mid-2004.

Haukohl said she has concerns because this was not discussed at the 2004 budget meetings. She understands why it is a capital project but why wasn't it mentioned? We are using contingency funds when it should have been in the 2005 budget. Crosswaite said this did not surface until the budget process was underway. Crosswaite said when Williams brought this to them, estimates were \$50K and Keckeisen was able to fund that amount in his current budget. Williams said this went out for bid late in 2004. We are in a unique situation on this with the WDNR because we are taking measures to stop salt runoff. Companies and municipalities statewide store salt in different ways such as on asphalt, covered with a tarp. The issue of salt storage and runoff is coming up. Without the WDNR, we would have had to investigate this ourselves.

Keckeisen said they could reprioritize money from the building improvement fund to cover these costs but this would put off other projects. When they received the bids late in December, they scrambled to get this to the board on time but it didn't work. DOA staff said because the cost are more than \$100,000, the project falls under the definition of a capital project. If they are unable to find money for this in the 2005 budget, they can put it into the 2006 Capital Plan.

Williams said the WDNR has been understanding with the issue and our timeline. The WDNR believes we acted in good faith and know we are planning on correcting this. They aren't giving us a schedule for completion.

Mader said he asked DOA if they could have encumbered the 2004 funds and carried them over. DOA didn't think that was appropriate because money will be coming from different departments and wasn't part of the budget plan. He also asked DOA if they could reprioritize building projects. DOA said this could be done but then other projects would be pushed back and off schedule. He asked DOA why they are using contingency funds so early in the year? He was told that it was deemed an appropriate use, and also that the net financial cost would end up the same to the county.

Dwyer said it is unusual and uncomfortable to tap the contingency fund this early in the year.

Paulson asked if we could delay this project? Williams said she doesn't know. Dwyer said 72 counties around the state store salt and many don't have domes. Is this absolutely necessary at this time? Will we be at risk if we do not deal with this at this time? Williams said the WDNR has held a private company responsible for polluting a private well. There are wells in use in the area but we have not sampled all of them. There are many ways salt can get into the ground water.

Kolb said it seems extreme to have a collection tank for salt runoff from trucks. Could Corporation Counsel talk to the WDNR to explore all our options? Williams said when the leak was detected; we let the WDNR know we had fixed it. The WDNR alerted us that we were still above the standard parts per million even after we had repaired the tank. Since we have actual data stating we are above the enforcement standards and there are regulations stating how we should proceed.

Stamsta asked when did we get the results of the extended investigations? Williams said we got the information in the spring of 2004. Stamsta asked wasn't thought given to the fact that once the results were received, money may be needed to fix the situation? Crosswaite said Keckeisen found money in his budget

to deal with the problem when the estimate was \$50K. Williams said we never know what the budgetary impacts of extended investigations are going to be.

Mitchell said whoever prepared the ordinance did not include any alternatives.

Stamsta asked about the drains in the garage? Williams said the drains go to the septic tank and that is a conduit to the ground water. Chlorides go through the leach bed and into the ground water before tanks can be pumped. Williams said we are in this situation because we've done the right thing. We've monitored our activities.

Paulson said he doesn't understand why they didn't carryover the \$50K set aside for this.

MOTION: Manke moved, Paulson second, to approve Ordinance 159-O-107.

Manke asked what are the consequences if this isn't passed? Can it be put off a year? Salt is put on the roads and runs into the ground water. Williams said project bids might come in higher if we put this off for a year. This does require some tank expertise as well as subcontracted parts. There could be additional political costs with the village because we've given them our expected schedule to fix this.

Dwyer said we can table this and leave it until we can get more information. He asked Haukohl to investigate the budget issues with DOA.

MOTION: Kolb moved, Paulson second, to table Ordinance 159O- 107. Motion carried 7-0.

**Discuss and Consider Ordinance 159-O-083: Authorize Member Services Agreement with the Wisconsin Local Government Telecommunications Coalition**

Speaker said the City of Brookfield had many questions when they began investigating this proposal. After much investigation, he thinks it will be an asset to any community that joins. To him it was important that this was done fairly, above board and to have no tax dollars spent on it. He feels this was accomplished. The Coalition's strategic goal is regional cooperation and it is set up to be a good example of regional and statewide cooperation. This could potentially have cost savings that will impact us for years and provide us with better technologies to serve taxpayers. The Brookfield Common Council has voted to join the Coalition.

Kolb asked is the main goal of this is to sue or get satisfaction from SBC? Speaker said absolutely not. We're looking at cost savings. We'd like some acknowledgement from SBC that they haven't been billing us correctly. The number one goal is to get the best telecommunications deal and to communicate that throughout the state. We want to make sure all government organizations are all getting the same level of service at the same price.

Kolb asked how much do you think you were overcharged? Garsombke said the City of Brookfield had a two-year contract and were overcharged \$30 to 40K. He thinks Waukesha County was overcharged in the six-figure range.

Hakohl said if we wanted to get out of this, what kind of exit strategy is available and how much would it cost us? Speaker said he and the City's attorney are comfortable with the exit strategies. You can get out at any time.

Paulson asked why don't we ask the state to enforce the contracts? Speaker said there are two contracts. Local governments get one pricing tier while the state gets another. Some municipalities pay as much as nine

to ten times what the state pays. Waukesha County pays twice as much as the state does for the same services.

Mulcahey said he has spent his career dealing with government issues. For the last eight years, Whyte Hirschboeck Dudek has held telecommunications conferences to educate local governments and carriers. Three years ago, a telecommunications audit firm attended their conference and contacted Whyte Hirschboeck Dudek about some claims they were working on for municipalities. The only way this will work is through a regional plan. He knew that 50% of the recovered amount for municipalities by audit firms would go to the audit firms. They spent 11 to 12 months putting together an agreement to get the Coalition started and found there's more the Coalition can do besides claims. They want a standard contract expiration date for power and uniformity. They asked Mike Biagioli to be president because they needed someone talented in this field. Whyte Hirschboeck Dudek will do the day-to-day work. We want to build an organization to serve local governments.

Speaker said they reviewed the state contract, found discounting provisions and asked local governments if they were getting the appropriate discounts. When contracts and bills were audited, they found they weren't getting the appropriate prices. The average government doesn't go through the state contract because it is convoluted and difficult to read. They did a test claim with the City of Kenosha and found breach of contract and billing discrepancies. SBC acknowledged there was an overcharge. The City of Kenosha joined the Coalition. They have met with the Public Service Commission to discuss the findings.

Mucahey said our plan is to have a technology person from every local government involved. They have also recruited two telecommunications audit people to join the group. If a lawsuit goes forward, every group would have to approve it.

Kolb asked does the state pay for the same services we do? Garsombke said the state and local governments get the same services. There's no rationale for charging local governments more than the state. There are price discrimination statutes.

Sander said they were aware of the state contract. SBC told them there are certain things we could get the same prices as the state and some things we couldn't. Relative to being overcharged, we didn't have the expertise to look at the bills and determine if we were paying the right amount. Garsombke said Waukesha County isn't getting the price discounting they are supposed to.

Haukohl asked is the state excited about the Coalition? Mulcahy said he talked to the State Director of Information Technology about the Coalition and its goals. The director thought it was a good idea but thought the State might be defensive.

Paulson said you mentioned there was some wrongdoing. What is that? Garsombke said there are civil statutes that were potentially violated.

Mulcahey said a percentage of the claim will be used to pay for costs. Farley said he sees the Coalition using a statewide contract signed onto by municipalities. Just because we join the organization doesn't mean we are bound to the claims agreement.

Dwyer asked if everyone will see the benefit of the group? Mulcahey said there are two benefits of the Coalition. One benefit is to go for the claims and the other is to seek technological advances. Biagioli said the field of data communications is growing everyday. The Coalition will look at the technology as it evolves.

Kolb asked if this is such a concern, why wasn't it taken to the Public Service Commission right way? Mulcahey said we had a private meeting with the Public Service Commission to inform them of the organization and its goals.

Dwyer asked what Whyte Hirschboeck Dudek will be paid for their efforts? Farley said the firm is keeping track of their hours of involvement. They will be paid a flat hourly fee for their work, which will be less than 50% of the settlement fee. Dwyer asked how much time was put into this in the last year? Mulcahey said an enormous amount of time but their payment cannot exceed 50% of the settlement. Dwyer said he wanted information on the current expenses. Mulcahey said he can get Dwyer that information. We will have actual audited prices for all members when the time comes.

Haukohl said she has concern about the amount of time Biagioli and Sander will spend working for the Coalition. Biagioli said his first job is to the county and he takes it seriously. The Coalition is structured so staff at the law firm can help him if he needs anything. Meetings are scheduled so he doesn't have any conflicts with his job. He currently participates in several intergovernmental groups. Sander said there are benefits to being part of the group such as providing better services, financial savings, education, etc.

Farley said membership provides us with many provisions. Joining the group is key and getting a settlement back is a bonus. We shouldn't focus on a settlement. Biagioli said he has offered membership to the State so they too can save money.

MOTION Stamsta moved, Manke second, to remove Ordinance 159-O-083 from the table. Motion carried: 7-0.

MOTION: Manke moved, Stamsta second, to approve Ordinance 159-O-083.

MOTION: Paulson moved, Haukohl second, to amend line 26 of Ordinance 159-O-083 to replace the words "DOA" with "County Clerk". Motion carried: 7-0.

Esler asked how much money would we save on our contract by going through the Coalition? Sean said it depends on how the Coalition advances. We have an idea of the prices Coalition can get for us due to the strength in numbers. Biagioli said we don't have auditors on staff that review our bills. The Coalition offers the opportunity to review our bills.

Esler asked are we in the catbird seat to drive cost by the threat of the Coalition? Sander said there is strength in numbers and hopefully we could get a price reduction. Biagioli said contracts with telecommunications companies would be made with individual government units driven by knowledge brought together by the Coalition.

Dwyer said the state is in the last two year of their contract. Do you think having the Coalition ask for a rate reduction could drive the state rates higher? The cost has to be covered by someone. Biagioli said there are other providers besides SBC. Where SBC service is not available, those governments get the state contracted rates from other providers.

Motion, as amended, carried: 7-0.

**Discuss and Consider Ordinance 159-O-108: Amend Capital Project 200108, Justice Facility, to Permit Completion of Program/Training Rooms**

MOTION: Manke moved, Stamsta second, to approve Ordinance 159-O-108.

Trawicki said this ordinance modifies Capital Project 200108 Jail Facility Project Phase 1, to transfer additional funding for the construction of three program/training rooms that were designed but excluded from the capital project as approved due to overall project cost limitations. While the ordinance authorizes \$255,000 in additional construction expenditures, the overall project expenditure budget would remain the same at \$33,565,000. It transfers the dollar amount from the contingency appropriation within the capital project. No additional tax levy is required.

Trawicki said this was included in the project from the beginning but was removed through value engineering. It makes sense and will save money to complete this now and fit in with the area plan.

Mitchell asked when we go for future bids, can we lock into a certain cost, plus increases in materials? Cerreta said bids are normally good 30 to 60 days. It would be hard for anyone to guarantee a bid a year later.

Haukohl asked if there would be any other contingency costs for the jail? Ceretta said we are past all major issues at this point. Bolte said he's comfortable with the amount remaining in the contingency fund for the balance of the project.

Paulson said he will not support this ordinance until the contingency fund is correctly stated in the ordinance. Dwyer said the numbers in the contingency fund are correct. Money was taken from the contingency and moved to the construction line items. As we've progressed in the project, we have increased the project costs and decreased the contingency fund. We can't change it because then it would look like we only have \$500K in the contingency fund. No money has been drawn from the county contingency fund to cover jail expenses.

Motion carried: 6-1 (Paulson voted no).

#### **Discuss and Consider Resolution 159-R-014: Support the Inclusion of Two Advisory Referenda Questions on the April 2005 Spring Ballot**

MOTION: Haukohl moved, Paulson second, to approve Resolution 159-R-014. Motion carried: 7-0.

#### **Discuss and Consider 159-A-028: Appointment of G. William Chapman to the Sheriff Civil Service Commission**

MOTION: Manke moved, Stamsta second, to approve Appointment 159-A-028. Motion carried: 7-0.

#### **Committee Reports by Committee Chairs for the Following Meetings:**

January 11 and 13, 2005 – Public Works – Manke said at the January 11<sup>th</sup> meeting, the committee approved additional funds for the airport snow thrower. On January 13<sup>th</sup>, the committee reviewed six speed ordinances and one ordinance to amend a justice facility capital project to permit completion of program/training rooms. They tabled Ordinance 159-O-018 to dispose of the building at 1120 Northview Road.

January 14, 2005 – Judiciary and Law Enforcement – Mitchell said the Judiciary Committee also reviewed the ordinance to amend the justice facility capital project. The committee heard an overview of the Sheriff's Department strategic plan.

**Correspondence**

Chairman Dwyer reviewed and distributed the list of correspondence. He said Supervisors should request copies of the listed items from Jicha.

**Motion to Adjourn**

MOTION: Mitchell moved, Kolb second, to adjourn the meeting at 12:04 p.m. Motion carried: 7-0.

Respectfully submitted,

Walter Kolb  
Secretary